

REMARKS

This Amendment is submitted in reply to the non-final Office Action mailed on February 13, 2006. No fee is due in connection with this Amendment. The Director is authorized to charge any additional fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 112701-443 on the account statement.

Claims 1-10 are pending in this application. In the Office Action, the specification and Claims 4-10 are objected to, Claims 1-3 are rejected under 35 U.S.C. §112, second paragraph, and Claims 1-3 are rejected under 35 U.S.C. §102. In response Claims 1, 4 and 14 have been amended, and Claims 3 and 16 have been canceled. This amendment does not add new matter. In view of the amendment and/or for the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, the specification and Claims 4-10 are objected to. Specifically, the Patent Office asserts that the specification does not follow the preferred layout and that Claims 4-10 are in improper form because a multiple dependent claim cannot depend from another multiple dependent claim. In response, Applicants respectfully submit that a Preliminary Amendment was filed on January 31, 2005 (hereinafter "*Preliminary Amendment*") along with the application that addresses the informalities cited by the Patent Office. Moreover, in the *Preliminary Amendment*, Applicants added new Claims 11-23, which were not considered by the Patent Office. Accordingly, Applicants respectfully request that the objections to the specification and Claims 4-10 be withdrawn and that previously presented Claims 11-23 be allowed.

In the Office Action, Claims 1-3 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Patent Office alleges that the term "said means" in Claim 1 is not clear. In response, Claim 1 as discussed more fully below has been amended to address the issue cited by the Patent Office. Based on at least these noted reasons, Applicants believe that Claims 1-3 fully comply with 35 U.S.C. §112, second paragraph. Accordingly, Applicants respectfully request that the rejection of Claims 1-3 under 35 U.S.C. §112 be withdrawn.

In the Office Action, Claims 1-3 are rejected under 35 U.S.C. §102(b) as anticipated by GB 778394 (“*GB 778394*”). Claims 1-3 are rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 4,890,653 to Sartulairi (“*Sartulairi*”). Applicants respectfully disagree with and traverse these rejections for at least the reasons set forth below.

Applicants have amended independent Claim 1 to recite, in part, a device for preparing a beverage, comprising a water reservoir; an extraction head; a chamber connected to said reservoir for being filled with water from the reservoir and for delivering water to the extraction head; a conduit for conveying the water from said chamber to above the extraction head; a piston in the chamber for emptying water from said chamber; a compressed-gas reservoir and a valve for selectively allowing gas to displace the piston so as to empty the chamber of water. The amendment is supported in the specification, for example, in the *Preliminary Amendment*, page 5, line 4 to page 6, line 24. Claim 4 has been amended for clarification purposes. In contrast, Applicants respectfully submit that the cited references fail to disclose or suggest every element of Claim 1. In fact, Applicants respectfully submit that the Patent Office has failed to explicitly point out every element of Claim 1 in either *GB 778394* or *Sartulairi*.

GB 778394 fails to disclose or suggest a piston in the “water” chamber that is displaced by the gas under pressure as required, in part, by Claim 1. *GB 778394* also fails to disclose or suggest a valve for selectively allowing gas to displace the piston so as to empty the chamber of water as required, in part, by Claim 1. Instead, *GB 778394* discloses a device for making coffee with a brewing head (“filter holder”) being placed below a hydraulic cylinder. The cylinder is itself placed within a water reservoir to be able to fill it in under a depression being provided in the cylinder by effect of a piston 13. See, *GB 778394*, Figure 1. Water is pressurized in the cylinder by a lever mechanism that is activated by a second hydraulic piston 23. The second hydraulic piston 32 can be activated by steam or air to assist in moving piston 13. In contrast, the present invention utilizes one piston to move the water by direct effect of the gas on the piston. As a result, the present invention is much simpler and more energy efficient than the device of *GB 778394*.

Sartulairi is also deficient with respect to the present claims. For example, *Sartulairi* fails to disclose or suggest an extraction head as required, in part, by Claim 1. *Sartulairi* also fails to disclose or suggest a valve for selectively allowing gas to displace the piston so as to empty the chamber of water as required, in part, by Claim 1. Instead, *Sartulairi* is directed toward

a distinguishable device designed for dispensing beverages on an airplane. See, *Sartulairi*, column 1, lines 14-32.

For the reasons discussed above, Applicants respectfully submit that Claim 1 and Claims 2-3 that depend from Claim 1 are novel, nonobvious and distinguishable from the cited references.

Accordingly, Applicants respectfully request that the rejections of Claims 1-3 under 35 U.S.C. §102 be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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